

By: Geren

H.B. No. 3307

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the manufacture of malt beverages, including under
3 alternating brewery proprietorship and contract brewing
4 arrangements.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 1.04, Alcoholic Beverage Code, is
7 amended by adding Subdivisions (26) and (27) to read as follows:

8 (26) "Alternating brewery proprietorship" means an
9 arrangement in which two or more parties take turns using the
10 physical premises of a brewery as permitted under this code and
11 federal law.

12 (27) "Contract brewing arrangement" means an
13 arrangement in which two breweries, each of which has a separate
14 facility, contract for one brewery to manufacture malt beverages on
15 behalf of the other brewery due to the limited capacity or other
16 reasonable business necessity of one party to the arrangement.

17 SECTION 2. Section 12.01(a), Alcoholic Beverage Code, is
18 amended to read as follows:

19 (a) The holder of a brewer's permit may:

20 (1) manufacture, bottle, package, and label malt
21 liquor;

22 (2) import ale and malt liquor acquired from a holder
23 of a nonresident brewer's permit;

24 (3) sell the ale and malt liquor only to wholesale

1 permit holders in this state or to qualified persons outside the
2 state;

3 (4) dispense ale and malt liquor for consumption on
4 the premises; ~~and~~

5 (5) conduct samplings of ale or malt liquor, including
6 tastings, at a retailer's premises; and

7 (6) enter into an alternating brewery proprietorship
8 or contract brewing arrangement as provided by Section 12.06.

9 SECTION 3. Section 12.06, Alcoholic Beverage Code, is
10 amended by amending Subsections (a), (b), and (c) and adding
11 Subsections (e) and (f) to read as follows:

12 (a) The holder of ~~[An entity or successor to an entity that~~
13 ~~on May 1, 2005, held]~~ a brewer's or nonresident brewer's permit ~~[or~~
14 ~~whose brand was legally sold in this state]~~ may contract with the
15 holder of a brewer's permit:

16 (1) to provide brewing services; or

17 (2) for the use of the permit holder's brewing
18 facilities under an alternating brewery proprietorship if each
19 party to the proprietorship:

20 (A) has filed the appropriate Brewer's Notice and
21 Brewer's Bond, as required by the Alcohol and Tobacco Tax and Trade
22 Bureau of the United States Department of the Treasury; and

23 (B) if applicable, has posted with the commission
24 a bond in an amount determined by the commission under Subsection
25 (e) or (f) [or to provide brewing services].

26 (b) An entity ~~[or successor to an entity that on May 1, 2005,~~
27 ~~held a brewer's or nonresident brewer's permit or whose brand was~~

1 ~~legally sold in this state]~~ is not required to own its brewing
2 facilities if the entity operates under an alternating brewery
3 proprietorship as provided by Subsection (a).

4 (c) Each entity that is a party to an alternating brewery
5 proprietorship or contract brewing arrangement must hold a permit
6 at the location where brewing services are conducted under the
7 arrangement [~~More than one brewer's permit may be issued for a~~
8 ~~single premises if the permit holder for the premises has~~
9 ~~contracted with an entity or successor to an entity that on May 1,~~
10 ~~2005, held a brewer's or nonresident brewer's permit or whose brand~~
11 ~~was legally sold in this state for the use of the permit holder's~~
12 ~~brewing facilities or to provide brewing services].~~

13 (e) Subject to Subsection (f), the commission by rule may
14 require an entity that is a party to an alternating brewery
15 proprietorship or contract brewing arrangement to post with the
16 commission a bond in an amount determined by the commission not to
17 exceed \$200,000.

18 (f) An entity that is a party to an alternating brewery
19 proprietorship or contract brewing arrangement must post with the
20 commission a bond in an amount determined by the commission of not
21 less than \$30,000 if the entity does not own a fee interest in a
22 brewing facility.

23 SECTION 4. Section 13.04, Alcoholic Beverage Code, is
24 amended by amending Subsections (a), (b), and (c) and adding
25 Subsections (e) and (f) to read as follows:

26 (a) The holder of [~~An entity or successor to an entity that~~
27 ~~on May 1, 2005, held]~~ a brewer's or nonresident brewer's permit [~~or~~

1 ~~whose brand was legally sold in this state]~~ may contract with the
2 holder of a nonresident brewer's permit:

3 (1) to provide brewing services; or

4 (2) for the use of the permit holder's brewing
5 facilities under an alternating brewery proprietorship if each
6 party to the proprietorship:

7 (A) has filed the appropriate Brewer's Notice and
8 Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade
9 Bureau of the United States Department of the Treasury; and

10 (B) if applicable, has posted with the commission
11 a bond in an amount determined by the commission under Subsection
12 (e) or (f) [~~or to provide brewing services~~].

13 (b) An entity [~~or successor to an entity that on May 1, 2005,~~
14 ~~held a brewer's or nonresident brewer's permit or whose brand was~~
15 ~~legally sold in this state]~~ is not required to own its brewing
16 facilities if the entity operates under an alternating brewery
17 proprietorship as provided by Subsection (a).

18 (c) Each entity that is a party to an alternating brewery
19 proprietorship or contract brewing arrangement must hold a permit
20 at the location where brewing services are conducted under the
21 arrangement [~~More than one nonresident brewer's permit may be~~
22 ~~issued for a single premises if the permit holder for the premises~~
23 ~~has contracted with an entity or successor to an entity that on May~~
24 ~~1, 2005, held a brewer's or nonresident brewer's permit or whose~~
25 ~~brand was legally sold in this state for the use of the permit~~
26 ~~holder's brewing facilities or to provide brewing services].~~

27 (e) Subject to Subsection (f), the commission by rule may

1 require an entity that is a party to an alternating brewery
2 proprietorship or contract brewing arrangement to post with the
3 commission a bond in an amount determined by the commission not to
4 exceed \$200,000.

5 (f) An entity that is a party to an alternating brewery
6 proprietorship or contract brewing arrangement must post with the
7 commission a bond in an amount determined by the commission of not
8 less than \$30,000 if the entity does not own a fee interest in a
9 brewing facility.

10 SECTION 5. Section 61.41(d), Alcoholic Beverage Code, is
11 amended to read as follows:

12 (d) Notwithstanding Subsection (a) and Sections 11.49 and
13 109.53, more than one manufacturer's or nonresident
14 manufacturer's license may be issued for a single premises if the
15 license holder for the premises has contracted with an entity under
16 an alternating brewery proprietorship or contract brewing
17 arrangement [~~or successor to an entity that on May 1, 2005, held a~~
18 ~~manufacturer's or nonresident manufacturer's license or whose brand~~
19 ~~was legally sold in this state for the use of the license holder's~~
20 ~~premises for manufacturing purposes or to provide manufacturing~~
21 ~~services~~].

22 SECTION 6. Section 62.01(a), Alcoholic Beverage Code, is
23 amended to read as follows:

24 (a) The holder of a manufacturer's license may:

25 (1) manufacture or brew beer and distribute and sell
26 it in this state to the holders of general, local, and branch
27 distributor's licenses and to qualified persons outside the state;

1 (2) dispense beer for consumption on the premises;

2 (3) bottle and can beer and pack it into containers for
3 resale in this state, regardless of whether the beer is
4 manufactured or brewed in this state or in another state and
5 imported into Texas; ~~and~~

6 (4) conduct samplings of beer, including tastings, at
7 a retailer's premises; and

8 (5) enter into an alternating brewery proprietorship
9 or contract brewing arrangement as provided by Section 62.14.

10 SECTION 7. Section 62.14, Alcoholic Beverage Code, is
11 amended by amending Subsections (a) and (b) and adding Subsections
12 (b-1), (d), and (e) to read as follows:

13 (a) The holder of ~~[An entity or successor to an entity that~~
14 ~~on May 1, 2005, held]~~ a manufacturer's or nonresident
15 manufacturer's license ~~[or whose brand was legally sold in this~~
16 ~~state]~~ may contract with the holder of a manufacturer's license:

17 (1) to provide manufacturing services; or

18 (2) for the use of the license holder's manufacturing
19 facilities under an alternating brewery proprietorship if each
20 party to the proprietorship:

21 (A) has filed the appropriate Brewer's Notice and
22 Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade
23 Bureau of the United States Department of the Treasury; and

24 (B) if applicable, has posted with the commission
25 a bond in an amount determined by the commission under Subsection
26 (d) or (e) [or to provide manufacturing services].

27 (b) An entity ~~[or successor to an entity that on May 1, 2005,~~

1 ~~held a manufacturer's or nonresident manufacturer's license or~~
2 ~~whose brand was legally sold in this state]~~ is not required to own
3 its manufacturing facilities if the entity operates under an
4 alternating brewery proprietorship as provided by Subsection (a).

5 (b-1) Each entity that is a party to an alternating brewery
6 proprietorship or contract brewing arrangement must hold a license
7 at the location where manufacturing services are conducted under
8 the arrangement.

9 (d) Subject to Subsection (e), the commission by rule may
10 require an entity that is a party to an alternating brewery
11 proprietorship or contract brewing arrangement to post with the
12 commission a bond in an amount determined by the commission not to
13 exceed \$200,000.

14 (e) An entity that is a party to an alternating brewery
15 proprietorship or contract brewing arrangement must post with the
16 commission a bond in an amount determined by the commission of not
17 less than \$30,000 if the entity does not own a fee interest in a
18 manufacturing facility.

19 SECTION 8. Section 63.05, Alcoholic Beverage Code, is
20 amended by amending Subsections (a) and (b) and adding Subsections
21 (b-1), (d), and (e) to read as follows:

22 (a) The holder of [~~An entity or successor to an entity that~~
23 ~~on May 1, 2005, held]~~ a manufacturer's or nonresident
24 manufacturer's license [~~or whose brand was legally sold in this~~
25 ~~state]~~ may contract with the holder of a nonresident manufacturer's
26 license:

27 (1) to provide manufacturing services; or

1 (2) for the use of the license holder's manufacturing
2 facilities under an alternating brewery proprietorship if each
3 party to the proprietorship:

4 (A) has filed the appropriate Brewer's Notice and
5 Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade
6 Bureau of the United States Department of the Treasury; and

7 (B) if applicable, has posted with the commission
8 a bond in an amount determined by the commission under Subsection
9 (d) or (e) [~~or to provide manufacturing services~~].

10 (b) An entity [~~or successor to an entity that on May 1, 2005,~~
11 ~~held a manufacturer's or nonresident manufacturer's license or~~
12 ~~whose brand was legally sold in this state]~~ is not required to own
13 its manufacturing facilities if the entity operates under an
14 alternating brewery proprietorship as provided by Subsection (a).

15 (b-1) Each entity that is a party to an alternating brewery
16 proprietorship or contract brewing arrangement must hold a license
17 at the location where manufacturing services are conducted under
18 the arrangement.

19 (d) Subject to Subsection (e), the commission by rule may
20 require an entity that is a party to an alternating brewery
21 proprietorship or contract brewing arrangement to post with the
22 commission a bond in an amount determined by the commission not to
23 exceed \$200,000.

24 (e) An entity that is a party to an alternating brewery
25 proprietorship or contract brewing arrangement must post with the
26 commission a bond in an amount determined by the commission of not
27 less than \$30,000 if the entity does not own a fee interest in a

1 manufacturing facility.

2 SECTION 9. Subchapter A, Chapter 102, Alcoholic Beverage
3 Code, is amended by adding Section 102.22 to read as follows:

4 Sec. 102.22. VERIFICATION OF USE OF FACILITIES. (a) A
5 person who holds a permit issued under Chapter 12 or 13 or a license
6 issued under Chapter 62 or 63 shall verify to the commission on an
7 annual basis that a brewing or manufacturing facility owned or
8 controlled by the permit or license holder is not used to produce
9 malt beverages primarily for a specific retailer or the retailer's
10 affiliates.

11 (b) The commission shall adopt a form for the verification
12 required under this section.

13 SECTION 10. This Act takes effect September 1, 2013.